REMARKS/ARGUMENTS

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 depends on Claim 11, which has been withdrawn. It is recommended that Claim 12 be amended such that it depends on Claim 5 instead of Claim 11. Applicants thanks the Examiner for his thoroughness and attention to detail. Applicants have made the appropriate change.

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura (USPN 5,842,045) in view of Bridgelall (US 2002/0085516 A1). Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura (USPN 5,842,045) in view of Bridgelall as applied to Claims 18-20 above, and further in view of Pucheu-Marqu (US 2002/0089948 A1). Applicants respectfully traverse the rejections and request reconsideration in light of the remarks that follow.

MPEP § 2141.03 requires that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Neither the Nakamura nor the Bridgelall references either alone or in combination teach or suggest Applicants' claimed invention. The Examiner correctly admits that the Nakamura reference does not teach both TDMA and FDMA, so Applicants have amended independent Claim 18 to require such a limitation. Office Action, November 3, 2005, page 5. Thus, the Examiner attempts to use the Bridgelall reference for such a teaching. However, contrary to the Examiner's statement that Bridgelall teaches this limitation, the limitation is not disclosed. Thus, the rejection is unsupported by the art and should be withdrawn.

Applicants' claims require that *receiving the synchronization pattern* for *operating as a FDMA air interface type* and *operating as a TDMA air interface type*. The Examiner seems to suggest that since Nakamura discloses using the synchronization pattern for selecting a protocol type, the limitation of *receiving the synchronization pattern* for *operating as a FDMA air interface type* and *operating as a TDMA air*

interface type is disclosed in Nakamura with Bridgelall. However, the Examiner is mistaken. MPEP § 2141.03 requires that all the words in a claim be considered in judging the patentability of the claim against the prior art and the Examiner has not considered *all* the words, but has selected a few of the words in order to judge the patentability of the claimed invention. In short, the Nakamura with Bridgelall do not teach or suggest the elements of the claimed invention and do not specifically teach the claimed limitation of *receiving the synchronization pattern* for *operating as a FDMA air interface type* and *operating as a TDMA air interface type*. Further, the Examiner has used impermissible hindsight to combine the two references as there is no motivation to make such a combination. Thus, the rejection is unsupported by the art and must be withdrawn.

Because the combination of Nakamura and Bridgelall fails for the above reasons, so too does the combination of Nakamura and Bridgelall with Pucheu-Marque. As such, the rejection of Claim 21 is unsupported by the art and must be withdrawn.

Allowable Subject Matter

Claims 1-2, 5, 7, 9, and 13-15 are allowed and the Applicants appreciate the time that the Examiner has taken to examine these claims.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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Attachments